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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,438	09/11/2003	Branko D. Kovacevic	1458-0200220	7502
34456 7590 01/26/2010 LARSON NEWMAN & ABEL, LLP 5914 WEST COURTYARD DRIVE SUITE 200 AUSTIN, TX 78730				
EXAMINER				
BATES, KEVIN T				
ART UNIT		PAPER NUMBER		
2456				
MAIL DATE		DELIVERY MODE		
01/26/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/660,438

**Applicant(s)**

KOVACEVIC, BRANKO D.

**Examiner**

KEVIN BATES

**Art Unit**

2456

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 18 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-5, 7-13, 46-57, 59, 63 and 67-71.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/KEVIN BATES/  
Primary Examiner, Art Unit 2456

Applicant's election with traverse of the restriction mailed November 16, 2009 in the reply filed on January 18, 2010 is acknowledged. The traversal is on the ground(s) that the groups are independent and distinct, plus there is no burden. This is not found persuasive because the idea of processing packets based on packet length is an issue addressed in the fields such as variable message length communication system rather than fixed packet lengths. This feature is addressed in many systems that have no relation to determining protocols of packets, but many other systems not addressed or related to the first group of claim limitations. As result, the claim is directed to a system that distinct to the previously presented invention and would require and undue burden based on the new field of search that is required to consider the new and distinct invention that is now claimed.

The requirement is still deemed proper and is therefore made FINAL.

The claim amendments filed January 18, 2010 have been entered and the 35 USC 112 rejection is hereby withdrawn.

Applicant's arguments filed January 18, 2009 have been fully considered but they are not persuasive.

Regarding claim 1, the applicant argues that a TSID differs from the claimed start code. The examiner disagrees; the required aspect of a "start code" in the claim is any identifier or code that is used to help identify the protocol of an incoming data or multi-media stream. The TSID code recited in Okamoto performs that function in that system, so by the definition of a start code required in the claim, in light of the specification, does not differ from the TSID code of the reference.

Regarding claim 67, the applicant argues that the Okamata does not teach a set of physical interface parameters. The examiner disagrees; Okamata teaches the ability to receive and interpret data streams in multiple formats (Col. 23, lines 18 – 67) including based on a determined format out of a plurality of format handing the interfacing of the data stream (Col. 27, line 35 – Col. 28, line 67).